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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3916/2024**

MOHIT KUMAR

.....Petitioner

Through: Mr. D.K. Sharma and Mr. Rahul
Sharma, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
SI Nitesh Singh, P.S. Mukerjee Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

29.01.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS (Section 439 Cr.P.C.) seeks regular bail in case FIR No. 295/2023, under Sections 307/323/34 of the IPC, registered at P.S. Mukherjee Nagar.
3. The case of the prosecution as per status report dated 16.11.2024, authored by SHO, P.S. Mukherjee Nagar, is as under:

“Briefly stated that The brief facts of the case is that on 8/03/23 an information from Sant Parmanand Hospital. Civil line vide DD No. 117A received in police station and the same was handed over to SI Santosh who immediately reached hospital where he found one Sagar Malhotra R/o- 1056, Mukherjee Nagar Age 19 yrs was admitted vide MLC No. 5018. He collected his MLC on which Dr. has mentioned A / H/ O - Stab Injury (Sharp Cut on left side back) and patient was declared unfit for statement and nature of injury under observation.

Further one Manish Srivastav s/o Trilok R/o- H No. 32/8 Building No.5, First Floor Indra Vikas Colony Delhi Age 32 Years met I.O. in the hospital who stated that On the intervening night of 08/09-03-23 at 20 around 10 pm he himself along with his cousin



namely Sagar Malhotra (injured) were present near Vishal Market Lal Ji Paan Bhandar to take food from a dhaba but due to Holi the dhaba was closed. Then the complainant told his cousin lets have Paan, at that time two person who were already there and one of them stabbed Sagar Malhotra. The person who stabbed Sagar Malhotra was saying that today he will finished him. After stabbing both ran away from the spot. Complainant himself brought him to the hospital and on the statement of Manish the above said FIR registered and investigation was taken up.

During investigation some incident was recorded in CCTV and DVR related to case was analyzed & seized. Further during investigation both accused identified as Mohit S/o- Sadanand Yadav and Akash Dhuriya s/o Ghanshyam. Both accused were clearly seen in the footage while committing offence.

On 9/3/23 accused Mohit was arrested and on the instance of accused Mohit his accomplice namely Akash Dhuriya has been arrested on 10/3/23 Both produced in Court and sent to JC. Mohit is the person who attacked on the injured namely Sagar Malhotra and Akash is the person who assist him. Weapon of offence (Knife) was recovered from accused Mohit. Supplementary statement of Manish was recorded who stated that Mohit stabbed his cousin brother Sagar Malhotra with intention to kill him and he also tried to stab him but somehow he saved himself. Injured Sagar was discharged from hospital in the evening on 12/03/23. MLC result of Sagar was obtained the doctor opined the injury dangerous in nature. Charge sheet of the case has been filed in the court against the accused Mohit. The case is pending trial in the court of Shri Satish Kumar ASJ -3 North District Rohini Court and next date of hearing is **25.02.25** for PE.”

4. Learned counsel appearing on behalf of the applicant submits that the complainant, i.e., author of the FIR examined as PW-2 before the learned Trial Court, has failed to identify the present applicant. It is submitted that after being declared hostile, on a pointed examination by learned APP for the State, he failed to identify the present applicant and other co-accused person. Similarly, PW-3, Mr. Sagar Malhotra, the injured witness, has not supported the prosecution case with regard to the present applicant as well as the co-



accused. It is submitted that the applicant has been in custody since 09.03.2023 and the co-accused has already been granted bail. It is further submitted that the applicant is not involved in any other offence and the trial is likely to take some time.

5. *Per contra*, learned APP for State, on instructions of the Investigating Officer, submits that although PW-2 and PW-3, i.e., the relevant witnesses have not supported the case of the prosecution; however, they still rely upon the CCTV footage of the incident in which the present applicant is clearly identified. She further confirms that the present applicant has no previous involvements.

6. Heard learned counsel for the parties and perused the records.

7. The case of the prosecution has not been supported by the relevant witnesses, i.e., PW-2 and PW-3. The applicant has been in judicial custody since 09.03.2023 and no useful purpose would be served by keeping him in judicial custody any further. No public witnesses are left to be examined in the present case and the trial is likely to take a long time.

8. In totality of the facts and circumstances of the case, the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 25,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when



the matter is taken up for hearing.

- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
9. The application is allowed and disposed of accordingly.
10. Pending application(s), if any, also stands disposed of.
11. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

JANUARY 29, 2025/bsr

Click here to check corrigendum, if any